

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

GREGORY RUSHING,

Petitioner,

Case Number: 04-74322

v.

HONORABLE GERALD E. ROSEN

RAYMOND BOOKER,

Respondent.

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**ORDER DENYING MOTION TO EXPEDITE APPOINTMENT  
OF SUBSTITUTE COUNSEL WITHOUT PREJUDICE**

Petitioner Gregory Rushing, a state inmate currently incarcerated at the Ryan Correctional Facility in Detroit, Michigan, filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 28, 2005, the Court issued an Opinion and Order Dismissing Petition for Writ of Habeas Corpus Without Prejudice and Denying Motion to Hold Petition in Abeyance (June 28, 2005 Opinion and Order). In the June 28, 2005 Opinion and Order, the Court held that the one-year statute of limitations found in 28 U.S.C. § 2244(d)(1) is tolled from the date the habeas petition was filed until the time Petitioner returns to federal court to pursue habeas corpus relief, provided, *inter alia*, that Petitioner files a Motion to Expedite Appointment of Substitute Counsel in Wayne County Circuit Court within 14 days from the date of the order.

Petitioner has now filed with this Court a “Motion to Expedite Appointment of Substitute Counsel.” The Motion bears the case number and case caption of a Wayne County Circuit Court proceeding. The Court, therefore, presumes that Petitioner has filed the Motion to advise the

Court that he has complied with the aforementioned condition set forth in the Court's June 28, 2005 Opinion and Order and is not actually seeking appointment of counsel in the habeas corpus proceeding. The Court, therefore, shall deny the Motion without prejudice.

Accordingly, **IT IS ORDERED** that the Motion to Expedite Appointment of Substitute Counsel is **DENIED**.

s/Gerald E. Rosen  
Gerald E. Rosen  
United States District Judge

Dated: September 29, 2005

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 29, 2005, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry  
Case Manager